

### **REMARKS**

Claims 1-20 are currently pending in the present application. Claims 1-20 stand rejected. Reconsideration of claims 1-20 in light of the following remarks.

The Examiner has object to claims 1, 4, and 14 because of informalities. In addition, claim 12 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Moreover, rejected claims 1, 3-5, 8-12, 14, 16-17, and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Abdel-Malek et al. (U.S. Patent Publication No. 2005/0171661). In addition, claims 2, 6-7, 13, 15 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibbs in view of Abdel-Malek et al. and further in view of Jarrett (U.S. Patent No. 6,345,257). Applicants respectfully traverse the rejections in light of the claims as amended, and for the reasons that follow.

#### **Claim Objections**

Claims 1, 4 and 14 were objected to because of informalities. With respect to claims 1 and 14, the Examiner found that the recitation of “for recording”, “for storing”, and “for entering” constitute intended use and do no cause any functionality to occur in the computer since each lacks combination with hardware to realize its functionality.

Claim 1 has been amended to remove the recitation of “for recording”, “for storing” and “for entering.” In addition, claim 14 has been amended to define, “a database having the information input into the data entry system stored therein.” These amendments, made to claims 4 and 14 overcome the objections thereto.

Claim 4 was objected to as reciting “may be.” Claim 4 has been amended to define that “the railcars are selected from the group...” as suggested by the Examiner. Applicants respectfully note that the amendment made thereto overcomes the objection thereto.

#### **Rejection of Claim 12 Under 35 U.S.C. § 112, Second Paragraph**

Claim 12 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner states that claims 12 provides for the use of

the “system for inputting information related to inspection of rail equipment.” However, the Examiner argues that it is unclear what process is intending to encompass, and the claim is indefinite where it recites a use without any active positive elements delimiting how this use is actually practiced.

Applicants have amended claim 12 to delete “for inputting information related to an inspection of rail equipment wherein the rail equipment comprises a plurality of parts” and have added “for the entry of information relating to the inspection of rail equipment having a plurality of parts, processing said information for the determination of a disposition for the rail equipment, and generating reports related thereto.” Applicants respectfully submit that claim 12 now provides clarity as to the process Applicants intend for it to encompass. Applicants respectfully submit that the claims now provide active positive elements delimiting how the use is actually practiced.

Rejection of Claims 1 and 12 Under 35 U.S.C. § 103(a) over Gibbs in view of Abdel-Malek et al.

### **CLAIM 1**

Claim 1 is directed to a method for inspecting rail equipment and storing information relating to the inspection. Among other limitations, claim 1 requires providing rail equipment having a plurality of parts and inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment. In addition, claim 1 requires providing a data entry system comprising a plurality of fields, querying a user of the data entry system for information relating to the damage condition of each of the parts of the rail equipment, entering the damage condition of each of the parts of the rail equipment into the plurality of fields, and generating at least one report showing an overall damage condition of the rail equipment that is calculated from the information input into the data entry system. Moreover, claim 1 requires providing a plurality of dispositions for the rail equipment wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair unit, and automatically assigning, via the data entry system, one of the plurality of dispositions to the rail equipment based on the overall damage condition of the rail equipment.

Contrary to the Examiner's assertions and arguments, neither Gibbs, Abdel-Malek et al., nor any other cited reference, teaches the steps defined in independent claim 1. At most, Gibbs and Abdel-Malek et al. merely describe general railcar inspection processes, mostly related to railcar status with respect to performance criteria, specifically relating to an operation of a transportation network. As such, information is collected relating to the performance of trains, such as "transport locations, transport status statistics and transport performance statistics." (Abstract, lines 13-15).

Specifically, the Examiner argues that Gibbs teaches the step of "inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment. (See Gibbs column 16, lines 5-67, also see Gibbs column 4, lines 1-37)." Applicants respectfully, but strenuously, assert that neither Gibbs, in general, nor the excerpts specifically cited by the Examiner, teach or even remotely describe inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment.

Generally, as noted above, Gibbs merely relates to a system for tracking the performance status of railcars, such as "transport locations, transport status statistics, and transport performance statistics" as they relate to the efficient operation of a transportation network. Therefore, information relating to where a railcar is located, how the railcar is performing, and, in some cases, extremely general status indicators relating to the condition of the railcar as a whole.

These indicators are specified in the excerpts the Examiner cites as proof of the disclosure of Applicants' invention. Specifically, the Examiner cites Gibbs, column 16, lines 5-67 and column 5, lines 1-37. However, none of the text cited by the Examiner relates in any way to "inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment," as defined by independent claim 1. The excerpted sections of Gibbs, quoted above, merely relate to train reports relating to their status in a transportation network. The information is utilized for informational purposes for planning the efficient utilization of the transportation network. Moreover, although there is some brief disclosure of a "quality inspection" and "mechanical failure codes," there is absolutely no teaching or disclosure of the step of inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment. In the present invention, each of the plurality of parts of the rail equipment is inspected.

Moreover, amended independent claim 1 defines a step of “entering the damage condition of each of the parts of the rail equipment into each of the plurality of fields.” This step is nowhere found in Gibbs, Abdel-Malek et al., or any other cited prior art.

The Examiner argues that Gibbs discloses “providing a data entry system for recording the condition of the parts of the rail equipment.” Specifically, the Examiner cites column 15, lines 15-58 and column 16, lines 47-54. Examination of these excerpts reveals that Gibbs in no way teaches entering the damage condition of the parts of the rail equipment. The invention provides a query relating to each of the parts of the rail equipment, and the user enters the damage condition of each of the parts in the plurality of fields. At most, Gibbs discloses providing generalized information relating to mechanical failure codes relating to a railcar.

The Examiner further argues that Gibbs discloses the step of “inputting the information into the data entry system,” but an analysis of the cited excerpt from Gibbs reveals that there is no teaching in Gibbs of “entering the damage condition of each of the parts of the rail equipment into each of the plurality of fields,” as defined in claim 1.

As correctly noted by the Examiner, Gibbs fails to show the steps of “providing a plurality of dispositions” and assigning one of the plurality of dispositions to the rail equipment “based on the overall damage condition of the rail equipment.” *See* Office Action dated August 22, 2006, pp. 5-6.

However, the Examiner maintains that it would have been obvious to provide a plurality of dispositions and assign one of the plurality of dispositions to the rail equipment based on the overall damage condition of the rail equipment because:

Gibb's reference as a whole teaches the overall damage condition of the rail equipment (i.e. to provide and assign plurality of status conditions, and setting alert status to dispatch a repair unit) having any type of content because Gibbs is directed to railroad transportation monitoring and management system and method by detecting, assigning status, and monitoring a set of real time identification, and display characteristics for the set of transports within the transportation network and generating an output display characterizing relationships between the sets of transports based on the information collected in the monitoring step (See Abstract).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Gibbs as modified to include the overall damage condition of the rail equipment because it provides a method for faster assistance, and more efficiently repairing of rail equipment (i.e. it is common to look at the over condition and then break it down part by part). (Office Action, pp. 6-7)

On the contrary, nowhere does Gibbs disclose a “method for faster assistance, and more efficiently repairing of rail equipment,” as argued by the Examiner. Gibbs relates to the tracking of railcars in a transportation network for the efficient operation of the transportation network and compilation of data relating to the railcars in the transportation network. There is no disclosure for providing “faster assistance” to rail equipment (presumably damaged) or of more efficiently repairing the rail equipment. In no place in the disclosure of Gibbs does Gibbs even mention the reparation of rail equipment. Therefore, there is no motivation to modify the teachings of Gibbs in the manner set forth by the Examiner. Moreover, the Examiner merely states in a conclusory manner that it would have been obvious to modify Gibbs without citing a reference in combination therewith.

Moreover, as noted above, Gibbs fails to disclose the steps recited in independent claim 1. Abdel-Malek et al. fails to provide the missing elements. Specifically, there is no disclosure in Gibbs of entering the damage condition of each of the parts of the rail equipment into each of the plurality of fields of the data entry system. As correctly noted by the Examiner, Gibbs fails to expressly show “providing a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system for the rail equipment and automatically assigning, via the data entry system, one of the dispositions to the rail equipment.”

The Examiner argues that Gibbs, as a whole, “teaches a computer-aided dispatch system column 4, lines 42-45 in accordance with problem flag column 11, line 4, a tag status, an activity and an owner (i.e. dispatch unit crew) column 11, lines 31-33 under the command of the dispatcher column 7, lines 10-12.” Analysis of the excerpts cited by the Examiner reveals that Gibbs is disclosing the movement of railcars (i.e., the dispatching thereof), through the transportation network, and in no way relates to a disposition based on an overall damage condition of the rail equipment, as defined by claim 1. Therefore, there is no motivation provided to combine Gibbs with any prior art.

Moreover, combining Gibbs with Abdel-Malek et al. fails to arrive at the claimed invention, as defined in independent claim 1. As noted above, Gibbs fails to disclose the steps of “inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment; entering the damage condition of each of the parts of the rail equipment into each of the plurality of fields; and generating at least one report showing an overall damage condition of the rail equipment that is calculated from the information input into the data entry system.” Abdel-Malek et al. fails to cure the deficiencies in Gibbs.

Abdel-Malek et al. fails to disclose that at least one of the dispositions comprises “repairing the rail equipment using a mobile repair system.” The Examiner cites Abdel-Malek et al., p. 4, paragraph 0034, p. 4, paragraph 0036, and p. 9, paragraph 0069, for support for the argument that Abdel-Malek et al. disclose “at least one of the dispositions comprises repairing the rail equipment using a mobile repair unit.” However, Abdel-Malek et al. fail to even mention that a repair disposition even includes repairing the rail equipment using a mobile repair unit.

To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royku*, 490 F.2d 981 (CCPA 1974). Specifically, all words in a claim must be considered in judging the patentability of that claim against the prior art. *See In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970). Applicants respectfully submit that neither Gibbs, Abdel-Malek et al., nor any other cited prior art discloses, teaches or suggests the steps of the method defined and recited in independent claim 1.

As a result, Applicants respectfully submit that Claim 1 is patentable over Gibbs. Additionally, claims 3-5 and 8-11 depend on claim 1, and include all of its limitations. Therefore, Applicants respectfully submit that claims 3-5 and 8-11 are also patentable over Gibbs.

## CLAIM 12

Similarly, Applicants respectfully submit that claim 12 is patentable over Gibbs. Claim 12 is directed to a data entry system for the entry of information relating to the inspection of rail equipment having a plurality of parts, processing said information for determining a disposition for the rail equipment, and generating reports related thereto. Among other limitations, claim 12

requires “means for querying a user of the data entry system for information relating to a damage condition of each of the parts of the rail equipment,” “means for inputting the information relating to the damage condition of each of the parts of the rail equipment,” “means for calculating an overall damage condition for the rail equipment based on the information relating to the damage condition of each of the parts of the rail equipment,” “means for automatically assigning a disposition from a plurality of dispositions based on the overall damage condition of the rail equipment wherein at least one of the plurality of dispositions comprises assigning a mobile repair unit to repair damage to the rail equipment,” and “means for generating at least one report showing the overall damage condition related to the information entered about the damage condition of each of the parts of the rail equipment and further showing the disposition assigned to the rail equipment based on the overall damage condition of the rail equipment.”

Similar to claim 1, analyzed in detail above, neither Gibbs, Abdel-Malek et al., nor any other cited prior art discloses the elements recited in amended independent claim 12. As argued extensively above, Gibbs fails to disclose, or even remotely teach, querying a user of the data entry system for information relating to a damage condition of each of the parts of the rail equipment. Moreover, Gibbs fails to disclose inputting the information relating to a damage condition of each of the parts of the rail equipment. In addition, despite the Examiner’s arguments to the contrary, Gibbs fails to disclose means for calculating an overall damage condition for the rail equipment based on information relating to the damage condition of each of the parts of the rail equipment. Still further, Gibbs fails to disclose means for generating at least one report related to the information entered about the damage condition of each of the parts of the rail equipment and further showing the disposition assigned to the rail equipment based on the overall damage condition of the rail equipment.

The Examiner argues that Abdel-Malek et al. teaches means for assigning a disposition from a plurality of dispositions wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system. As noted above with respect to claim 1, Abdel-Malek et al. fails to disclose this element. Therefore, the combination of Gibbs and Abdel-Malek et al. fails to teach each and every element of amended independent claim 12.

As a result, Applicants respectfully submit that Claim 12 is patentable over Gibbs. Additionally, claims 14, 16-17, and 19-20 depend on claim 12, and include all of its limitations.

Therefore, Applicants respectfully submit that claims 14, 16-17, and 19-20 are also patentable over Gibbs.

The Examiner has also rejected claims 2, 6-7, 13, 15, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Gibbs in view of U.S. Patent No. 6,345,257 to Jarrett. Applicants respectfully traverse the rejection.

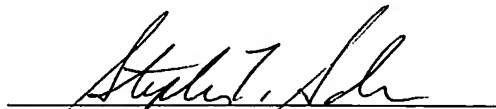
As noted above, Applicant's submit that independent claims 1 and 12 are patentable over Gibbs. Claims 2-6, 13, 15, and 18 depend on either claims 1 or 12, and include all the limitations of their respective independent claims. Therefore, Applicants respectfully submit that claims 2-6, 13, 15, and 18 are patentable for the same reasons that claims 1 and 12 are patentable, and request allowance of the same.

### **CONCLUSION**

In view of the foregoing remarks, Applicants respectfully submit that all of the currently pending claims are in allowable form and that the application is in condition for allowance. Reconsideration and reexamination of the pending claims is requested. If for any reason the Examiner is unable to allow the application and feels that an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to contact the undersigned attorney at (312) 372-2000.

Respectfully submitted,

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